



# BOARD OF INQUIRY *(Human Rights Code)*

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IN THE MATTER OF the Ontario *Human Rights Code*, R.S.O. 1990, c. H.19, as amended;

AND IN THE MATTER OF the complaint by Bob Brown dated September 24, 1993, alleging discrimination with respect to services and facilities because of handicap.

**B E T W E E N :**

Ontario Human Rights Commission

- and -

Bob Brown

**Complainant**

- and -

Famous Players Inc. and Capitol Square Theatre

**Respondents**

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## DECISION

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**Adjudicator :** Heather M. MacNaughton

**Date :** August 18, 1999

**Board File No:** BI-0174-98

**Decision No :** 99-009

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Board of Inquiry *(Human Rights Code)*  
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## APPEARANCES

Ontario Human Rights Commission	)	Anthony D. Griffin, Counsel
	)	
	)	
Bob Brown, Complainant	)	on his own behalf
	)	
	)	
Famous Players Inc., and	)	
Capitol Square Theatre,	)	Derek Rogers and Wendy Kady
Respondents	)	Counsel
	)	

1. The Complainant Bob Brown is a wheelchair user. In his complaint dated September 24, 1993, Brown alleged that his rights under Sections 1 and 9 of the *Ontario Human Rights Code*, R.S.O. 1990 c. H. 190 (the “*Code*”) were violated by the Respondents Famous Players Theatres, Capital Square Theatre and Place de Ville Theatre. He alleged that motion picture theatres operated by the Respondents in Ottawa were inaccessible to members of the Ottawa community who used wheelchairs.
2. At the commencement of this hearing I was advised that the correct name for the corporate Respondent was Famous Players Inc., and the complaint was so amended. In addition I was advised that neither Brown nor the Ontario Human Rights Commission intended to pursue the complaint against the Respondent Place de Ville Theatre.
3. In joint submissions the parties agreed that Famous Players Inc. operated the Capital Square Theatre in premises leased from Bank Street Developments Limited who are not a party to this proceeding. The lease commenced in May 1, 1972 and was due to expire on March 31, 2002 (the “Lease”). The Capital Square Theatre was not accessible to Brown, or to others who use a wheelchair.
4. Based on the above facts, I find and declare that Brown’s rights under section 1 of the *Code* were infringed by Famous Players Inc. While it was open to Famous Players Inc. to argue

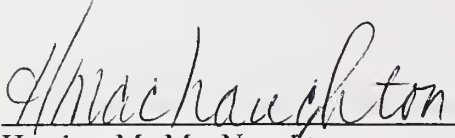
a number of possible defences, it chose to waive them in this case. This was, in part, due to the fact that it has closed the Capital Square Theatre.

5. The parties consented to me issuing the following order arising from the acknowledged breach of Brown's human rights.

### ORDER

1. Famous Players Inc. will not operate the Capitol Square Theatre as a motion picture theatre or auditorium at any time in the future.
2. Famous Players Inc. will not sublet the Capital Square Theatre. It is understood that any exercise by the landlord of its rights under the "Lease" shall not constitute a breach of this order.
3. Famous Players Inc. will pay to Mr. Brown the sum of \$6,000.00 (six thousand dollars) as general damages for breach of his rights under the *Code*.

Dated at Toronto this 18th day of August, 1999:

  
Heather M. MacNaughton  
Chair, Board of Inquiry